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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/896,432	06/29/2001	Edward Paul Cemocky	SOC-105	8240

7590 08/10/2005

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EXAMINER

GREENE, DANIEL LAWSON

ART UNIT	PAPER NUMBER
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3663

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/896,432

Applicant(s)

CERNOCKY ET AL.

Examiner

Daniel L. Greene Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/2/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. **Claims 1-5, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over the previously cited references Snider in view of Guerreri for the reasons set forth in section 4 of the previous office action mailed 1/28/2005.**

Applicant's arguments filed 5/2/2005 have been fully considered but they are not persuasive.

In response to applicant's argument on page 6 that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the examiner has set forth motivations to combine the references in section 4 of the 1/28/2005 office action. Additionally applicant is directed to Snider page 11, lines 14-15 wherein it is clearly stated "the present invention...is capable of being remotely actuated by any suitable means such as...radio signals, etc" (underlining added) and column 1, lines 5-8 of Guerreri wherein it is clearly stated "This invention relates

generally to devices and methods for remotely detonating one or more explosive charges.” Clearly the knowledge generally available to one of ordinary skill in the art would allow for the use of Guerreri as the “suitable means” of remotely actuating the invention of Snider.

Additionally it is noted that applicant has failed to provide any reasoning as to why there is no suggestion to combine other than saying it isn't so. Simply saying there is not sufficient suggestion to combine the references without any facts as to why, does not make it so.

In response to applicant's argument that Snider and Guerreri is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, not only are Snider and Guerreri considered analogous for the reasons set forth in the previous office action, but a review of the classification of both references shows that Snider is classified in class 166 and 175 and Guerreri is classified in class 102. A review of these class definitions clearly shows that both classes 166 and 175 are cross-referenced to class 102 and vice versa. Additionally Snider page 11, lines 14-15 clearly states “the present invention...is capable of being remotely actuated by any suitable means such as...radio signals, etc” (underlining added). Applicant is directed to column 1, lines 5-8 of Guerreri wherein it is clearly stated that “This

invention relates generally to devices and methods for remotely detonating one or more explosive charges." Although applicant argues Guerreri is related to "detonation of explosive charges using electrical detonators in environments having high levels of extraneous electricity" Guerreri is inherently capable of being used in ANY application requiring remote detonation of one or more explosive charges. Therefore, for the reasons set forth above, it is the examiners position that Snider and Guerreri are in fact analogous art..

Page 7 of applicant's arguments received 5/2/2005 states that Guerreri does not disclose an explosive bridge wire. This is not persuasive. Applicant is directed to Guerreri column 6, lines 57-63, and column 8, lines 27-28 and 47-48 wherein Guerreri claims "a plurality of explosive charges, each of said charges having an electrically activated detonator." Although the claims are read in light of the specification, limitations from the specification are not read into the claims as the claims must be interpreted in the broadest reasonable sense. Applicant's specification page 10, lines 13-15 discloses that a high voltage is supplied to explosive bridge wire 42 to trigger detonation of the respective charges. It is the examiners position that the phrase "electrically activated detonator" in Guerreri reads on applicants exploding bridge wire detonator, since an exploding bridgewire detonator is electrically activated. Additionally it is noted that Guerreri clearly states that "the firing mechanism itself is of conventional type" (See column 6, line 57). If applicant is of the opinion that an exploding wire detonator is not a conventional type of firing mechanism or electrically activated,

then applicant is directed to either column 1, lines 27-35 of U.S Patent 3,351,012 to Wilson or column 1, lines 8-15 of U.S. Patent 3,735,705 to Hudson, Jr. et al. wherein both references are only being used to show it is notoriously old and well known that explosive bridgewire initiators are indeed a conventional type of electrically activated firing mechanism commonly used for many years.

3. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Snider in view of Guerreri and further in view of Neyer for the reasons set forth in sections 8-10 of the previous office action mailed 1/28/2005.

As explained in section 2 above, all elements of applicant's arguments presented in section A of the remarks received 5/2/2005 have been addressed therefore the rejection set forth in sections 8-10 of the previous office action mailed 1/28/2005 is maintained.

4. Claims 8-12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snider in view of Abouav and further in view of Guerreri for either the reasons set forth in sections 11-14 of the office action mailed 1/28/2005 or in the alternative further in view of U.S Patent 5,295,544 to Umphries provided by applicant's IDS received 5/2/2005.

Applicant's arguments spanning pages 7 and 8 are fully addressed in section 2 above.

Sections 11-14 of the office action mailed 1/28/2005 also explain how the references read on applicant's invention as claimed except for SPECIFICALLY reciting that the explosive charge is in direct contact with the tubular.

It is noted that claim 1 of Snider recites:

*"A process for establishing fluid communication comprising:
positioning (including connecting/attaching(see claim 40)) at least one
explosive charge in a subterranean well bore such that said at least one
explosive charge is placed external to casing which is also positioned within said
well bore and is aimed toward said casing; and
detonating said at least one explosive charge so as to perforate the wall of
said casing at least once."*

and it is the examiners position that the phrase "positioning at least one explosive charge...external to casing...and is aimed toward said casing" is generic to and reads on the explosive charge being directly connected with said tubing, however if applicant is of the opinion that such is not so, then the examiner offers the following.

Umphries column 2, lines 29-32, and column 5, lines 1-21, teach it is old and advantageous for a perforating explosive charge to be in direct intimate contact with the pipe casing (or tubular) for the benefits of, for example controlling the force of perforation or perforating charges, punching of only one pipe casing or tubular, forming a defined hole without further damaging or causing fractures of the pipe casing, etc., etc. therefor at the time of the invention, it would have been obvious to one of ordinary skill in the art to attach the explosive charge of Snider to the tubular such that the explosive charge is in direct contact with the tubular as taught to be old and advantageous by Umphries.

5. **Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Snider in view of Abouav and further in view of Guerreri for either the reasons set**

forth in sections 11-14 of the office action mailed 1/28/2005 or in the alternative further in view of U.S Patent 5,295,544 to Umphries provided by applicant's IDS received 5/2/2005 as applied to claim 8 above, and further in view of Neyer for the reasons set forth in sections 15-17 of the office action mailed 1/28/2005.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as

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well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel L. Greene Jr. whose telephone number is (571) 272-6876. The examiner can normally be reached on Mon-Fri 8:30am - 5pm.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can normally be reached, Mon-Fri 6:30am -4:00pm, at telephone number (571) 272-6878. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DIG

8/7/2005


JACK KEITH
PRIMARY EXAMINER
SPE 3663